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accepted by the advance of credit by the guarantee, and that notice is only a condition precedent to a *suit* against the guarantor. *Bishop v. Eaton* (1894) 161 Mass. 496, 37 N. E. 665; *Somersall v. Barneby* (1611, K. B.) Cro. Jac. 287; *Powers v. Bumcratz* (1861) 12 Oh. St. 273. This view seems sound wherever a "guaranty" is not an acceptance, for consideration received *at the time*, of an offer by the guarantee, as above indicated. Some cases have held that notice is necessary to bind a "guarantor," but not a "surety." *Homewood People's Bank v. Hastings* (1919, Pa.) 106 Atl. 308; *Hess v. Watkins Medical Co.* (1919, Ind. App. Ct.) 123 N. E. 440. But no satisfactory criterion for the classification of "sureties" and "guarantors" was advanced, and such a division seems superfluous and unsound

TORTS—FRAUD AND DECEIT—LIMITATION OF ACTIONS—DAMAGES.—The defendant fraudulently concealed and misrepresented the actual facts which resulted in the death of the plaintiff's husband. As a result, the plaintiff did not sue during the period in which the wrongful death statute allowed an action. Having subsequently discovered the fraud of the defendant and that she had once had a good cause of action, the plaintiff sued in deceit for the resulting damages. *Held*, that she was entitled to recover, because the damages were not speculative and the limitation by the statute for wrongful death was no bar to an action in deceit. *Desmaris v. People's Gaslight Co.* (1919, N. H.) 107 Atl. 491.

The principal case was not governed by the wrongful death statute, because suit within two years after death is made a condition precedent by that statute to the right to recover. *Poff v. Telephone Co.* (1903) 72 N. H. 164, 55 Atl. 891; *De Martino v. Siemon* (1916) 90 Conn. 527, 97 Atl. 765. In this action of deceit the plaintiff had to prove that she had once had a claim under the wrongful death statute; that the defendants made false representations; that these prevented her from the action under the statute; and that she had suffered damages thereby. The plaintiff's damages were the value of the lost claim. See *Ochs v. Woods* (1917) 221 N. Y. 335, 341, 117 N. E. 305, 307; see *Urtz v. N. Y. C. & H. R. R. R.* (1911) 202 N. Y. 170, 181, 95 N. E. 711, 714. These damages were not speculative. *Alexander v. Church* (1885) 53 Conn. 561, 4 Atl. 103. The reason appears to be that the jury would determine and award the value of the lost claim, and not the amount of damages a jury hearing the original cause of action would have given. However, such damages have been held speculative, in what appears to be a very unsatisfactory decision. *Whitman v. Seaboard Air Line Co.* (1917, S. C.) 92 S. E. 861. It is not a condition precedent to the plaintiff's recovery in such cases that he investigate the truth of the defendant's representations; he is protected in relying on them without investigation. *Laird v. Keithley* (1918, Mo.) 201 S. W. 1138. The reasoning in the principal case seems sound, and the result reached is desirable and just. Other courts might well follow this case in order that such a statutory limitation may not be misused to work injustice.

TORTS—LIBEL—SECONDARY PUBLICATION.—One of two defendants claimed that he was liable only for secondary, and not primary, publication of a libel. An instruction was given that, if the jury found for the plaintiff, it should assess certain specified damages, including an item for injuries resulting from the original publication. *Held*, that the instruction was erroneous. *Sourbier v. Brown* (1919, Ind.) 123 N. E. 802.

In the instant case, secondary publication is used in a limited sense to mean the exhibition of an original libelous article. This term, however, is generally used to mean the distribution of copies of a libel. It seems well settled that